

petition on the other parties and on the Chief Docket Clerk.

(e) *Forwarding of the record.* Upon request by the Office of the Secretary, the ALJ shall forward the record of the proceeding to the Secretary or designee.

(f) *Brief in opposition.* Any opposing party may file a brief opposing review, not to exceed 10 pages, within 20 days of receiving the petition for review and accompanying brief. The brief in opposition shall be served on all parties.

(g) *Additional briefs.* If the petition is granted, then the Secretary or designee may order the filing of additional briefs.

(h) There is no right to appear personally before the Secretary or designee.

(i) There is no right to appeal any interlocutory ruling by the ALJ.

(j) In reviewing the initial decision, the Secretary or designee shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(k) The Secretary or designee shall consider only evidence contained in the record forwarded by the ALJ. However, if any party demonstrates to the satisfaction of the Secretary or designee that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the Secretary or designee shall remand the matter to the ALJ for consideration of such additional evidence.

(l) The prohibitions of ex parte contacts in §26.30 shall apply to contacts with the Secretary or designee.

(m) The Secretary or designee may affirm, reduce, reverse, compromise, remand, or settle any relief granted in the initial decision. The Secretary or designee shall consider, and include in any final determination, such factors as may be set forth in applicable statutes or regulations.

(n) The Secretary or designee shall promptly serve each party to the appeal with a copy of his or her decision

and a statement describing the right to seek judicial review.

(o) *Judicial review.* A party must generally file a petition for judicial review within 20 days of service of the Secretary's determination, or the Secretary's determination shall become final and not subject to judicial review. In Program Fraud Civil Remedies Act matters (24 CFR part 28), the respondent shall have 60 days from the date that the determination is sent to the respondent in which to file a petition. See also §26.52.

§ 26.51 Exhaustion of administrative remedies.

In order to fulfill the requirement of exhausting administrative remedies, a party must seek Secretarial review under §26.50 prior to seeking judicial review of any initial decision issued under subpart B of this part.

§ 26.52 Judicial review.

Judicial review shall be in accordance with applicable statutory procedures and the procedures of the appropriate Federal court. The Government may not seek judicial review of an adverse determination of a Program Fraud Civil Remedies Act matter.

§ 26.53 Collection of civil penalties and assessments.

Collection of civil penalties and assessments shall be in accordance with applicable statutory provisions.

§ 26.54 Right to administrative offset.

The amount of any penalty or assessment that has become final under §26.49, or for which a judgment has been entered after action under §§26.52 or 26.53, or agreed upon in a compromise or settlement among the parties, may be collected by administrative offset under 31 U.S.C. 3716 or other applicable law. In Program Fraud Civil Remedies Act matters, an administrative offset may not be collected against a refund of an overpayment of Federal taxes then or later owing by the United States to the respondent.